

AMENDED IN ASSEMBLY MARCH 18, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1994

Introduced by Assembly Member Reyes

February 15, 2002

An act to amend Sections 47605, 47613.1, and 47652 of, *and to add Section 47605.1 to*, the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL'S DIGEST

AB 1994, as amended, Reyes. Charter schools: operation.

(1) Existing law, the Charter Schools Act of 1992 (Act), permits the governing board of a school district to approve a charter school to operate independently from the existing school district structure as a method of accomplishing, among other things, improved pupil learning. *Under the act, if the governing board of a school district denies petition for the establishment of a charter school, the petitioner may elect to submit the petition for the establishment of a charter school to either the county board of education or directly to the State Board of Education. The act does not expressly authorize a school district to approve a petition for a charter school that would operate outside the boundaries of the school district.* Under the act, a petition for the establishment of a charter school is required to describe specified elements, including, among others, the educational program of the school and information on the facilities to be used by the charter school.

This bill would require the petition for the establishment of a charter school to describe how a charter school that will serve high school pupils will inform parents about the transferability and eligibility of courses to meet college entrance requirements, the procedures to be

used if the charter school closes, an indication of whether the school will operate at multiple sites, and would prescribe related matters. By imposing new duties on school districts, the bill would impose a state-mandated local program.

The bill would provide that, on and after January 1, 2003, a charter school that is granted a charter from the governing board of a school district or from a county office of education may only operate within the boundaries of that school district or county, respectively. The bill would also authorize a charter school that is granted a charter from the governing board of a school district or from a county office of education, on or after January 1, 2003, to operate within the geographical boundaries of the immediately adjacent county, and would prescribe related matters.

(2) The act requires the Superintendent of Public Instruction, in the 1999–2000, 2000–01, and 2001–02 fiscal years, to make apportionments to a charter school that elects not to be funded pursuant to the block grant funding model set forth in the act in each fiscal year that the charter school so elects.

This bill would require the Superintendent of Public Instruction to make those apportionments in each fiscal year that a charter school so elects.

(3) The act requires that a charter school in its first year of operation be eligible to receive funding for an advanced apportionment based on an estimate of average daily attendance for the current fiscal year, approved as specified.

This bill would authorize a charter school in its first year of operation to commence instruction within the first 3 months of the fiscal year beginning July 1 of that year, and would make a charter school ineligible for an apportionment for a fiscal year in which instruction commenced after September 30 of that fiscal year.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,



reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 47605 of the Education Code is
2 amended to read:
3 47605. (a) (1) Except as set forth in paragraph (2), a petition
4 for the establishment of a charter school within any school district
5 may be circulated by any one or more persons seeking to establish
6 the charter school. The petition may be submitted to the governing
7 board of the school district for review after either of the following
8 conditions are met:
9 (A) The petition has been signed by a number of parents or
10 guardians of pupils that is equivalent to at least one-half of the
11 number of pupils that the charter school estimates will enroll in the
12 school for its first year of operation.
13 (B) The petition has been signed by a number of teachers that
14 is equivalent to at least one-half of the number of teachers that the
15 charter school estimates will be employed at the school during its
16 first year of operation.
17 (2) In the case of a petition for the establishment of a charter
18 school through the conversion of an existing public school, that
19 would not be eligible for a loan pursuant to subdivision (b) of
20 Section 41365, the petition may be circulated by any one or more
21 persons seeking to establish the converted charter school. The
22 petition may be submitted to the governing board of the school
23 district for review after the petition has been signed by not less than
24 50 percent of the permanent status teachers currently employed at
25 the public school to be converted.
26 (3) A petition shall include a prominent statement that a
27 signature on the petition means that the parent or guardian is
28 meaningfully interested in having his or her child, or ward, attend
29 the charter school, or in the case of a teacher's signature, means
30 that the teacher is meaningfully interested in teaching at the charter
31 school. The proposed charter shall be attached to the petition.
32 (b) No later than 30 days after receiving a petition, in
33 accordance with subdivision (a), the governing board of the school

1 district shall hold a public hearing on the provisions of the charter,
2 at which time the governing board of the school district shall
3 consider the level of support for the petition by teachers employed
4 by the district, other employees of the district, and parents.
5 Following review of the petition and the public hearing, the
6 governing board of the school district shall either grant or deny the
7 charter within 60 days of receipt of the petition, provided,
8 however, that the date may be extended by an additional 30 days
9 if both parties agree to the extension. In reviewing petitions for the
10 establishment of charter schools pursuant to this section, the
11 chartering authority shall be guided by the intent of the Legislature
12 that charter schools are and should become an integral part of the
13 California educational system and that establishment of charter
14 schools should be encouraged. A school district governing board
15 shall grant a charter for the operation of a school under this part if
16 it is satisfied that granting the charter is consistent with sound
17 educational practice. The governing board of the school district
18 shall not deny a petition for the establishment of a charter school
19 unless it makes written factual findings, specific to the particular
20 petition, setting forth specific facts to support one or more of the
21 following findings:

22 (1) The charter school presents an unsound educational
23 program for the pupils to be enrolled in the charter school.

24 (2) The petitioners are demonstrably unlikely to successfully
25 implement the program set forth in the petition.

26 (3) The petition does not contain the number of signatures
27 required by subdivision (a).

28 (4) The petition does not contain an affirmation of each of the
29 conditions described in subdivision (d).

30 (5) The petition does not contain reasonably comprehensive
31 descriptions of all of the following:

32 (A) A description of the educational program of the school,
33 designed, among other things, to identify those whom the school
34 is attempting to educate, what it means to be an “educated person”
35 in the 21st century, and how learning best occurs. The goals
36 identified in that program shall include the objective of enabling
37 pupils to become self-motivated, competent, and lifelong learners.
38 If the proposed school will serve high school pupils, a description
39 of how the charter school will inform parents about the



1 transferability and eligibility of courses to meet college entrance
2 requirements.

3 (B) The measurable pupil outcomes identified for use by the
4 charter school. "Pupil outcomes," for purposes of this part, means
5 the extent to which all pupils of the school demonstrate that they
6 have attained the skills, knowledge, and attitudes specified as
7 goals in the school's educational program.

8 (C) The method by which pupil progress in meeting those pupil
9 outcomes is to be measured.

10 (D) The governance structure of the school, including, but not
11 limited to, the process to be followed by the school to ensure
12 parental involvement.

13 (E) The qualifications to be met by individuals to be employed
14 by the school.

15 (F) The procedures that the school will follow to ensure the
16 health and safety of pupils and staff. These procedures shall
17 include the requirement that each employee of the school furnish
18 the school with a criminal record summary as described in Section
19 44237.

20 (G) The means by which the school will achieve a racial and
21 ethnic balance among its pupils that is reflective of the general
22 population residing within the territorial jurisdiction of the school
23 district to which the charter petition is submitted.

24 (H) Admission requirements, if applicable.

25 (I) The manner in which annual, independent, financial audits
26 shall be conducted, which shall employ generally accepted
27 accounting principles, and the manner in which audit exceptions
28 and deficiencies shall be resolved to the satisfaction of the
29 chartering authority.

30 (J) The procedures by which pupils can be suspended or
31 expelled.

32 (K) The manner by which staff members of the charter schools
33 will be covered by the State Teachers' Retirement System, the
34 Public Employees' Retirement System, or federal social security.

35 (L) The public school attendance alternatives for pupils
36 residing within the school district who choose not to attend charter
37 schools.

38 (M) A description of the rights of any employee of the school
39 district upon leaving the employment of the school district to work

1 in a charter school, and of any rights of return to the school district
2 after employment at a charter school.

3 (N) The procedures to be followed by the charter school and the
4 entity granting the charter to resolve disputes relating to provisions
5 of the charter.

6 (O) A declaration whether or not the charter school shall be
7 deemed the exclusive public school employer of the employees of
8 the charter school for the purposes of the Educational Employment
9 Relations Act (Chapter 10.7 (commencing with Section 3540) of
10 Division 4 of Title 1 of the Government Code).

11 (P) A description of the procedures to be used if the charter
12 school closes. The procedures shall ensure a final audit of the
13 school to determine the disposition of all assets and liabilities of
14 the charter school, including plans for disposing of any net assets
15 and for the maintenance and transfer of pupils records.

16 (c) (1) Charter schools shall meet all statewide standards and
17 conduct the pupil assessments required pursuant to Section 60605
18 and any other statewide standards authorized in statute or pupil
19 assessments applicable to pupils in noncharter public schools.

20 (2) Charter schools shall on a regular basis consult with their
21 parents and teachers regarding the school's educational programs.

22 (d) (1) In addition to any other requirement imposed under this
23 part, a charter school shall be nonsectarian in its programs,
24 admission policies, employment practices, and all other
25 operations, shall not charge tuition, and shall not discriminate
26 against any pupil on the basis of ethnicity, national origin, gender,
27 or disability. Except as provided in paragraph (2), admission to a
28 charter school shall not be determined according to the place of
29 residence of the pupil, or of his or her parent or guardian, within
30 this state, except that any existing public school converting
31 partially or entirely to a charter school under this part shall adopt
32 and maintain a policy giving admission preference to pupils who
33 reside within the former attendance area of that public school.

34 (2) (A) A charter school shall admit all pupils who wish to
35 attend the school.

36 (B) However, if the number of pupils who wish to attend the
37 charter school exceeds the school's capacity, attendance, except
38 for existing pupils of the charter school, shall be determined by a
39 public random drawing. Preference shall be extended to pupils
40 currently attending the charter school and pupils who reside in the

1 district except as provided for in Section 47614.5. Other
2 preferences may be permitted by the chartering authority on an
3 individual school basis and only if consistent with the law.

4 (C) In the event of a drawing, the chartering authority shall
5 make reasonable efforts to accommodate the growth of the charter
6 school and, in no event, shall take any action to impede the charter
7 school from expanding enrollment to meet pupil demand.

8 (e) No governing board of a school district shall require any
9 employee of the school district to be employed in a charter school.

10 (f) No governing board of a school district shall require any
11 pupil enrolled in the school district to attend a charter school.

12 (g) The governing board of a school district shall require that
13 the petitioner or petitioners provide information regarding the
14 proposed operation and potential effects of the school, including,
15 but not limited to, the facilities to be utilized by the school, the
16 manner in which administrative services of the school are to be
17 provided, and potential civil liability effects, if any, upon the
18 school and upon the school district. The description of the facilities
19 to be used by the charter school shall specify where the school
20 intends to locate and whether the school will operate on multiple
21 sites. If the school will operate on multiple sites, the petitioner
22 shall describe a process for notifying the district when an
23 additional site will begin operation. The petitioner or petitioners
24 shall also be required to provide financial statements that include
25 a proposed first-year operational budget, including startup costs,
26 and cashflow and financial projections for the first three years of
27 operation.

28 (h) In reviewing petitions for the establishment of charter
29 schools within the school district, the school district governing
30 board shall give preference to petitions that demonstrate the
31 capability to provide comprehensive learning experiences to
32 pupils identified by the petitioner or petitioners as academically
33 low achieving pursuant to the standards established by the State
34 Department of Education under Section 54032.

35 (i) Upon the approval of the petition by the governing board of
36 the school district, the petitioner or petitioners shall provide
37 written notice of that approval, including a copy of the petition, to
38 the State Board of Education.

39 (j) (1) If the governing board of a school district denies a
40 petition, the petitioner may elect to submit the petition for the

1 establishment of a charter school to either the county board of
2 education or directly to the State Board of Education. The county
3 board of education or the State Board of Education, as the case may
4 be, shall review the petition pursuant to subdivision (b). If the
5 petitioner elects to submit a petition for establishment of a charter
6 school to the county board of education and the county board of
7 education denies the petition, the petitioner may file a petition for
8 establishment of a charter school with the State Board of
9 Education.

10 (2) A charter school for which a charter is granted by either the
11 county board of education or the State Board of Education
12 pursuant to this subdivision shall qualify fully as a charter school
13 for all funding and other purposes of this part.

14 (3) If either the county board of education or the State Board
15 of Education fails to act on a petition within 120 days of receipt,
16 the decision of the governing board of the school district, to deny
17 a petition shall, thereafter, be subject to judicial review.

18 (4) The State Board of Education shall adopt regulations
19 implementing this subdivision.

20 (5) Upon the approval of the petition by the county board of
21 education, the petitioner or petitioners shall provide written notice
22 of that approval, including a copy of the petition to the State Board
23 of Education.

24 (k) (1) The State Board of Education may, by mutual
25 agreement, designate its supervisory and oversight
26 responsibilities for a charter school approved by the State Board
27 of Education to any local education agency in the county in which
28 the charter school is located or to the governing board of the school
29 district that first denied the petition.

30 (2) The designated local education agency shall have all
31 monitoring and supervising authority of a chartering agency,
32 including, but not limited to, powers and duties set forth in Section
33 47607, except the power of revocation, which shall remain with
34 the State Board of Education.

35 (3) A charter school that has been granted its charter by the
36 State Board of Education and elects to seek renewal of its charter
37 shall, prior to expiration of the charter, submit its petition for
38 renewal to the governing board of the school district that initially
39 denied the charter. If the governing board of the school district



denies the school's petition for renewal, the school may petition the State Board of Education for renewal of its charter.

(l) Teachers in charter schools shall be required to hold a Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold. These documents shall be maintained on file at the charter school and shall be subject to periodic inspection by the chartering authority. It is the intent of the Legislature that charter schools be given flexibility with regard to noncore, noncollege preparatory courses.

SEC. 2. *Section 47605.1 is added to the Education Code to read:*

47605.1. (a) (1) Notwithstanding any other provision of law, on or after January 1, 2003, a charter school that is granted a charter from the governing board of a school district may establish charter school operations only within the geographical boundaries of that school district, or within the geographical boundaries of a county that is immediately adjacent to that school district.

(2) Notwithstanding any other provision on or after January 1, 2003, a charter school that submits its petition directly to a county board of education, as authorized by Section 47605.5, may establish charter school operations only within the geographical boundaries of the county in which that county board of education has jurisdiction, or within the geographical boundaries of a county that is located immediately adjacent to that county.

(3) Notwithstanding any other provision of law, on or after January 1, 2003, a charter school that is granted a charter by a county board of education or the State Board of Education, based on the denial of a petition by the governing board of a school district, as described in paragraphs (1) and (2) of subdivision (j) of Section 47605, may establish charter school operations only within the geographical boundaries of the school district that initially denied the petition for the charter, or within the geographical boundaries of a county that is immediately adjacent to that school district.

(b) Nothing in this section is intended to affect the admission requirements contained in subdivision (d) of Section 47605.

(c) (1) Nothing in this section is intended to affect the geographical location in which a charter school operates for those

1 *charter schools granted a charter on or before the effective date*
2 *of this section.*

3 (2) *Nothing in this section is intended to affect the authority of*
4 *a governmental entity to revoke a charter that it granted on or*
5 *before the effective date of this section.*

6 SEC. 3. Section 47613.1 of the Education Code is amended to
7 read:

8 47613.1. The Superintendent of Public Instruction shall
9 make all of the following apportionments on behalf of a charter
10 school that elects not to be funded pursuant to the block grant
11 funding model set forth in Section 47633 in each fiscal year that
12 the charter school so elects:

13 (a) From funds appropriated to Section A of the State School
14 Fund for apportionment for that fiscal year pursuant to Article 2
15 (commencing with Section 42238) of Chapter 7 of Part 24, an
16 amount for each unit of current fiscal year regular average daily
17 attendance in the charter school that is equal to the current fiscal
18 year base revenue limit for the school district to which the charter
19 petition was submitted.

20 (b) For each pupil enrolled in the charter school who is entitled
21 to special education services, the state and federal funds for special
22 education services for that pupil that would have been apportioned
23 for that pupil to the school district to which the charter petition was
24 submitted.

25 (c) Funds for the programs described in clause (i) of
26 subparagraph (B) of paragraph (1) of subdivision (a) of Section
27 54761, and Sections 63000 and 64000, to the extent that any pupil
28 enrolled in the charter school is eligible to participate.

29 ~~SEC. 3.—~~

30 SEC. 4. Section 47652 of the Education Code is amended to
31 read:

32 47652. (a) Notwithstanding Section 41330, a charter school
33 in its first year of operation shall be eligible to receive funding for
34 the advance apportionment based on an estimate of average daily
35 attendance for the current fiscal year, as approved by the local
36 educational agency that granted its charter and the county office
37 of education in which the charter-granting agency is located. Not
38 later than five business days following the end of the first 20
39 schooldays, a charter school receiving funding pursuant to this
40 section shall report to the Department of Education its actual

1 average daily attendance for that first month, and the
2 Superintendent of Public Instruction shall adjust immediately, but
3 not later than 45 days, the amount of its advance apportionment
4 accordingly.

5 (b) A charter school in its first year of operation may only
6 commence instruction within the first three months of the fiscal
7 year beginning July 1 of that year. A charter school shall not be
8 eligible for an apportionment for a fiscal year in which instruction
9 commenced after September 30 of that fiscal year.

10 ~~SEC. 4.~~

11 *SEC. 5.* Notwithstanding Section 17610 of the Government
12 Code, if the Commission on State Mandates determines that this
13 act contains costs mandated by the state, reimbursement to local
14 agencies and school districts for those costs shall be made pursuant
15 to Part 7 (commencing with Section 17500) of Division 4 of Title
16 2 of the Government Code. If the statewide cost of the claim for
17 reimbursement does not exceed one million dollars (\$1,000,000),
18 reimbursement shall be made from the State Mandates Claims
19 Fund.

